

# House Study Bill 51

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED BOARD OF  
PHARMACY BILL)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to the practice of pharmacy by establishing a  
2 registration program for pharmacy support persons and  
3 regulating the internet sale of prescription products,  
4 including a program of registration of pharmacy internet  
5 sites, making penalties applicable, and establishing a general  
6 definition for the term "internet site".  
7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
8 TLSB 1416DP 83  
9 jr/rj/8

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1 1 Section 1. Section 4.1, Code 2009, is amended by adding  
1 2 the following new subsection:  
1 3 NEW SUBSECTION. 9B. "Internet site" means a specific  
1 4 location on the internet that is determined by internet  
1 5 protocol numbers, by a domain name, or by both, including but  
1 6 not limited to domain names that use the designations ".com",  
1 7 ".edu", ".gov", ".org", and ".net".  
1 8 Sec. 2. Section 155A.3, subsection 38, Code 2009, is  
1 9 amended to read as follows:  
1 10 38. "Prescription drug order" means ~~a written, electronic,~~  
~~1 11 or facsimile an order from transmitted, delivered, or~~  
~~1 12 otherwise communicated to a pharmacist by a practitioner or an~~  
~~1 13 oral order from as directed by a practitioner or the~~  
~~1 14 practitioner's authorized agent who communicates the~~  
~~1 15 practitioner's instructions in the authorized course of~~  
~~1 16 professional practice~~ for a prescription drug or device to be  
1 17 dispensed.  
1 18 Sec. 3. NEW SECTION. 155A.6B PHARMACY SUPPORT PERSON  
1 19 REGISTRATION.  
1 20 1. The board shall establish a registration program for  
1 21 pharmacy support persons who work in a licensed pharmacy and  
1 22 who are not licensed pharmacists or registered pharmacy  
1 23 technicians for the purposes of identification, tracking, and  
1 24 disciplinary action for the violation of federal drug laws or  
1 25 regulations, state drug or pharmacy laws, or board rules. The  
1 26 registration shall not include any determination of the  
1 27 competency of the registered individual and, notwithstanding  
1 28 section 272C.2, subsection 1, shall not require continuing  
1 29 education for renewal.  
1 30 2. A person registered with the board as a pharmacy  
1 31 support person may assist pharmacists by performing routine  
1 32 clerical and support functions. Such a person shall not  
1 33 perform any professional duties or any technical or dispensing  
1 34 duties. The ultimate responsibility for the actions of a  
1 35 pharmacy support person working under a licensed pharmacist's  
2 1 supervision shall remain with the licensed pharmacist.  
2 2 3. Applicants for registration must apply to the board for  
2 3 registration on a form prescribed by the board.  
2 4 4. The board shall adopt rules in accordance with chapter  
2 5 17A on matters pertaining to pharmacy support person  
2 6 registration, application, renewals, fees, termination of  
2 7 registration, training, and any other relevant matters.  
2 8 5. The board may deny, suspend, or revoke the registration  
2 9 of a pharmacy support person or otherwise discipline the  
2 10 pharmacy support person for any violation of the laws of this  
2 11 state, another state, or the United States relating to  
2 12 prescription drugs, controlled substances, or nonprescription  
2 13 drugs, or for any violation of this chapter or chapter 124,  
2 14 124A, 124B, 126, 147, 205, or 272C, or any rule of the board.  
2 15 Sec. 4. NEW SECTION. 155A.13B PHARMACY INTERNET SITES.

2 16 1. As used in this section:  
2 17 a. "Electronic mail" means any message transmitted through  
2 18 the internet including but not limited to messages transmitted  
2 19 from or to any address affiliated with an internet site.  
2 20 b. "Internet broker" means an entity that serves as an  
2 21 agent or intermediary or other capacity that causes the  
2 22 internet to be used to bring together a buyer and seller.  
2 23 c. "Internet sale" means a transaction, initiated via an  
2 24 internet site, that includes the order of and the payment for  
2 25 a prescription drug product.

2 26 2. A pharmacy operating within or outside this state shall  
2 27 not sell, dispense, distribute, deliver, or participate in the  
2 28 sale, dispensing, distribution, or delivery of any  
2 29 prescription drug to any patient in this state through an  
2 30 internet site or by electronic mail unless all of the  
2 31 following are met:

2 32 a. All internet sites and electronic mail used by the  
2 33 pharmacy for purposes of sales or delivery of a  
2 34 prescription-only drug are in compliance with all requirements  
2 35 of federal law applicable to the site or electronic mail.

3 1 b. (1) The pharmacy that sells, dispenses, distributes,  
3 2 or delivers the prescription-only drugs is in compliance with  
3 3 all requirements of relevant state law.  
3 4 (2) The pharmacy is properly licensed and regulated by the  
3 5 board to operate a pharmacy pursuant to section 155A.13 or  
3 6 155A.13A.

3 7 c. The pharmacist who fills the prescription drug order is  
3 8 not in violation of subsection 4.

3 9 d. (1) The pharmacy is not in violation of subsection 6.  
3 10 (2) The pharmacy is in compliance with an Iowa  
3 11 prescription drug monitoring program if an Iowa prescription  
3 12 drug monitoring program exists and the pharmacy is subject to  
3 13 reporting or other requirements of the program.

3 14 3. A practitioner who writes a prescription drug order  
3 15 through an internet site or electronic mail for a patient  
3 16 physically located in this state must be licensed by the  
3 17 applicable licensing authority and in compliance with all  
3 18 applicable laws.

3 19 4. A pharmacist practicing within or outside this state  
3 20 shall not fill a prescription drug order to dispense a  
3 21 prescription drug to a patient if the pharmacist knows or  
3 22 reasonably should have known under the circumstances that the  
3 23 prescription drug order was issued under both of the  
3 24 following:

3 25 a. Solely on the basis of an internet questionnaire, an  
3 26 internet consultation, or a telephonic consultation.  
3 27 b. Without a prior valid patient-practitioner  
3 28 relationship.

3 29 5. An internet broker operating within or outside this  
3 30 state may participate in the sale of a prescription drug in  
3 31 this state only if the internet broker knows that the  
3 32 pharmacist who dispenses the drug is not in violation of  
3 33 subsection 4.

3 34 6. A pharmacy shall not sell, dispense, distribute,  
3 35 deliver, or participate in the sale, dispensing, distribution,  
4 1 or delivery of any prescription-only drug to a consumer in  
4 2 this state if any part of the transaction was conducted  
4 3 through an internet site unless the internet site displays in  
4 4 a clear and conspicuous manner all of the following:

4 5 a. The name of the pharmacy.  
4 6 b. The address of the licensed physical location of the  
4 7 pharmacy.  
4 8 c. The telephone number of the pharmacy.  
4 9 d. The license number issued by the board to the pharmacy.  
4 10 e. The certification issued by the national association of  
4 11 boards of pharmacy identifying the pharmacy as a verified  
4 12 internet pharmacy practice sites site, the verified internet  
4 13 pharmacy practice site's seal, and a link to the national  
4 14 association of boards of pharmacy's verification site, except  
4 15 that verified internet pharmacy practice sites certification  
4 16 shall not be required of a pharmacy that utilizes an internet  
4 17 site for the convenience of a patient to request a  
4 18 prescription refill or to request or retrieve drug information  
4 19 but requires that the filled prescription be delivered to the  
4 20 patient at the licensed physical location of the pharmacy.  
4 21 f. The internet site registration number issued by the  
4 22 board.

4 23 7. A pharmacy that sells, dispenses, distributes,  
4 24 delivers, prescribes, or participates in the sale, dispensing,  
4 25 distribution, or delivery of any prescription drug to any  
4 26 patient in this state, if the patient submitted the purchase

4 27 order for the prescription drug through an internet site or by  
4 28 electronic mail, shall not disclaim, limit, or waive any  
4 29 liability to which the pharmacy otherwise is subject under law  
4 30 for the act or practice of selling, dispensing, distributing,  
4 31 or delivering prescription drugs.

4 32 8. A disclaimer, limitation, or waiver in violation of  
4 33 this section is void.

4 34 9. An attempt to make a disclaimer, limitation, or waiver  
4 35 in violation of this section is a violation of this chapter.

5 1 10. For purposes of this section, the board shall adopt  
5 2 rules in accordance with chapter 17A on matters pertaining to  
5 3 internet site registration, application, forms, renewals,  
5 4 fees, termination of registration, and any other relevant  
5 5 matters.

5 6 Sec. 5. Section 155A.27, unnumbered paragraph 1, Code  
5 7 2009, is amended to read as follows:

5 8 ~~Each To be valid, each~~ prescription drug order issued or  
5 9 ~~filled dispensed~~ in this state ~~must be based on a prior valid~~  
5 10 ~~patient=practitioner relationship, and:~~

5 11 Sec. 6. Section 155A.29, Code 2009, is amended by adding  
5 12 the following new subsection:

5 13 NEW SUBSECTION. 4. An authorization to refill a  
5 14 prescription drug order may be transmitted to a pharmacist by  
5 15 a prescriber or the prescriber's agent through word of mouth,  
5 16 note, telephone, facsimile, or other means of communication  
5 17 initiated by or directed by the practitioner. The  
5 18 transmission shall include the information required pursuant  
5 19 to section 155A.27 and, if not transmitted directly by the  
5 20 practitioner, shall identify by name and title the  
5 21 practitioner's agent completing the transmission.

#### 5 22 EXPLANATION

5 23 This bill establishes a registration program for pharmacy  
5 24 support persons who may perform only routine clerical and  
5 25 support functions. A pharmacy support person shall not  
5 26 perform any professional duties or any technical or dispensing  
5 27 duties.

5 28 The bill also establishes new requirements for the internet  
5 29 sale of prescription drugs by pharmacies. In part, the bill  
5 30 prohibits a pharmacist from filling a prescription drug order  
5 31 from a provider if both of the following conditions are met:

5 32 1. The order is based solely on an internet questionnaire,  
5 33 an internet consultation, or a telephonic consultation.

5 34 2. A prior valid patient=practitioner relationship does  
5 35 not exist.

6 1 The bill requires internet pharmacies to display certain  
6 2 information on their internet sites and requires them to  
6 3 obtain certification as a verified internet pharmacy practice  
6 4 site from the national association of boards of pharmacy. The  
6 5 bill requires internet pharmacies to obtain an internet site  
6 6 registration from the board and prevents internet pharmacies  
6 7 from disclaiming, limiting, or waiving liability to which they  
6 8 otherwise would be subject under the law.

6 9 The bill allows a prescriber or the prescriber's agent to  
6 10 authorize the refill of a prescription by any means of  
6 11 communication, including word of mouth.

6 12 The bill also amends Code chapter 4, adding a general  
6 13 definition of the term "internet site".

6 14 LSB 1416DP 83

6 15 jr/rj/8.1